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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/835,838	04/16/2001	Mark Vange	CIRC011	4185

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EXAMINER	
JAROENCHONWANIT, BUNJOB	
ART UNIT	**PAPER NUMBER**
2143	10

DATE MAILED: 05/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/835,838	VANGE, MARK	
	Examiner	Art Unit	
	Bunjob Jaroenchonwanit	2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 April 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-12 and 14-19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-12 14-19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims -8, 11-12, 14-16 and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Bruck et al (US. 6,691,165).

3. Claims 1-8, 11-12, 14-16 and 18, Bruck discloses a system for load balancing in a network environment comprising:

a plurality of servers coupled by a plurality of communication channels to a network (back end servers connected to internet via a front end servers cluster 200, Fig.2; 1704, Fig. 17);

a set of network resources associated with each of the servers, wherein at least some of the network resources are redundant (abstract, server cluster 204, Fig. 2; 1706-1708, Fig. 17; Col. 5, lines 21-50; Col.28, lines 17-63);

a client coupled to the network and generating a request specifying some of the redundant resources (Clients 1710, Fig. 17)

a gateway machine coupled to the network in communication with the client, the gateway machine configured to receive the request from the client (front end server cluster 200 or 1704), select from amongst the servers that are associated with the request-specified redundant services,

establish communication channels with the selected server over one of the communication channels, and access the specified server to service the received client request; and

means coupled to the gateway machine for selecting amongst servers of redundant resources a particular server for a received request so as to balance load amongst the servers providing redundant resources and to balance load across the plurality of communication channels (Abstract; Col. 2, lines 42-67; Col. 3, lines 22-44; Col. 5, line 21-Col. 7, line 40; Col. 12, line 3-Col. 13, line 5; Col. 28, line 17-Col. 29, line 58).

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 9, 10, 17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over by Bruck et al, as applied to claim1 above, in view of San Andres et al (US. 5,956,489).

6. Regarding claim 19, Bruck discloses the invention substantially, as claimed, as described in claim 1, including front end, i.e., intermediary server, are is separate address domain from back end server (Fig. 2, and 17). Bruck is silent to queuing request in the intermediary server. However, in an analogous art, San Andres discloses a gateway, i.e., intermediary server, which includes service map and a queue data structure for queuing service request, as claimed. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to incorporate the request queue as suggested in San Andres for balancing service among server

as suggested in San Andres (San Andres, Fig. 1, 4-5; Col. 5, lines 4055; Col. 6, lines 22-31; Col. 8, lines 4-12; Col.7, lines 48-56; Col. 8, lines 4-35; Col. 9, lines 32-52; Col. 10, line 40-Col. 13, line 48; Col. 18, lines 10-15; Col.21, lines 24-32).

7. Regarding claims 9, 10 and 17, Bruck discloses the invention substantially, as claimed, as described in claim 1, including means to select server for providing redundant services, but the selecting server does not explicitly include the factors, such as the relative quality and load threshold. However using relative quality for selecting server to provide service is conventional idea, which also taught in -San Andres. San Andres, in the same field of endeavor, teaches session map, MCP locator and redirector for monitoring and redirecting service request based on load of the server resided in gateway, (Fig. 1, 4-5, Col. 7, lines 32-56; Col. 10, line 53 - Col. 13, line 48), which clearly associated relative quality for server selection. In addition, San Andres teaches allocation server loads is based on threshold comparison, (Col. 7, lines 47-56). Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to associate relative service quality for selecting server as suggested in San Andres for balancing service among servers as suggested in San Andres (San Andres, Fig. 1, 4-5; Col. 5, lines 4055; Col. 6, lines 22-31; Col. 8, lines 4-12; Col.7, lines 48-56; Col. 8, lines 4-35; Col. 9, lines 32-52; Col. 10, line 40-Col. 13, line 48; Col. 18, lines 10-15; Col.21, lines 24-32).

8. Applicant's arguments with respect to the amended claims have been considered but are moot in view of the new ground(s) of rejection.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bunjob Jaroenchonwanit whose telephone number is (703) 305-9673. The examiner can normally be reached on 8:00-17:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on (703) 308-5221. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Bunjob Jaroenchonwanit
Primary Examiner
Art Unit 2143

/bj
5/17/04